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APR 29 2004

OFFICE OF PETITIONS

In re Application of :
Tanaka, et al. :
Filed: November 6, 2003 : ON PETITION
Application No. 10/701,440 :
Atty. Dkt. No.: 396.43260X00 :

This decision in response to the "PETITION UNDER 37 C.F.R. § 1.53(e), filed March 26, 2004, to accord the above-identified application a filing date of November 6, 2003.

The application was submitted November 6, 2003. The Office of Initial Patent Examination ("OIPE") mailed a Notice of Incomplete Nonprovisional Application ("Notice") on February 4, 2004. The Notice indicated that the application had not been accorded a filing date as the application appeared to have been deposited without drawings as required under 35 USC 113.

Petitioner argues that drawings are not necessary for an understanding of the subject matter sought to be patented and requests that the application be accorded a filing date of November 6, 2003.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) provides that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that

can be construed as a written description and the names of all the inventors.

A review of the official file reveals that the application includes 28 method claims. In view of the above, the Notice mailed February 4, 2004 was mailed in error and is hereby WITHDRAWN. Accordingly, the petition is GRANTED.

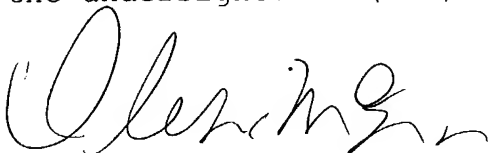
The application will be processed with only the papers present on filing and is hereby accorded a filing date of November 6, 2003, without drawings as part of the original disclosure.

The petition fee of \$130.00 is unnecessary and has been refunded to petitioner's Deposit Account.

The application is being returned to OIPE for reprocessing with a filing date of November 6, 2003, using the application papers filed on that date, and an indication in PTO records to show that zero (0) sheets of drawings were present on filing.

Thereafter, the application will be forwarded to the appropriate group art unit for processing in due course and examination of the preliminary amendment submitted herewith.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.



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